

TENTATIVE RULINGS for CIVIL LAW and MOTION

March 12, 2010

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted at the entrance to the courtroom and on the Yolo Courts Website, at www.yolo.courts.ca.gov. If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Telephone number for the clerk in Department Fourteen: (530) 406-6941

TENTATIVE RULING

Case: **Chairez v. Minaberry**
Case No. CV PM 09-175

Hearing Date: **March 12, 2010** **Department Fourteen** **9:00 a.m.**

The unopposed motion to be relieved as counsel by the Law Office of William T. Yankey is **GRANTED**. This order is not effective until Mr. Yankey files a proof of service with the Court showing service of a copy of the signed order on the plaintiff.

If no hearing is requested, this tentative ruling is effective immediately.

TENTATIVE RULING

Case: **Munro v. Bio-Rad Laboratories, Inc. et al.**
Case No. CV CV 09-2841

Hearing Date: **March 12, 2010** **Department Fourteen** **9:00 a.m.**

Defendant Mallinckrodt Baker, Inc.'s demurrer to the second cause of action for negligence per se and the fifth cause of action for fraudulent concealment is **OVERRULED**. (Code Civ. Proc., § 430.10, subd. (e).) Plaintiff stated facts sufficient to constitute a cause of action for fraudulent concealment. (*Lovejoy v. AT&T* (2001) 92 Cal.App.4th 85.) While, negligence per se is not an independent cause of action but rather, comes under a negligence cause of action, the label of the cause of action is not determinative on a demurrer. The test is whether the complaint states any valid claim entitling plaintiff to relief. If the complaint states sufficient facts to constitute a valid cause of action, the complaint is good against a general demurrer. (*Quelimane Co., Inc. v. Stewart Title Guar. Co.* (1998) 19 Cal.4th 26, 38–39.)

Defendant's motion to strike portions of the complaint is **DENIED**. (Code Civ. Proc., §§ 435, 436 and 998; Civ. Code, § 3291; *Bockrath v. Aldrich Chemical Co., Inc.* (1999) 21 Cal.4th 71; *Lovejoy v. AT&T, supra*, 92 Cal.App.4th 85.)

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.